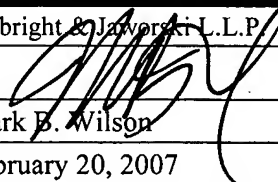


TRANSMITTAL FORM	Application Number:	10/565,415
	Filing Date:	January 23, 2006
	First Named Inventor:	Anthony Simmons
	Art Unit:	Unknown
	Examiner Name:	Unknown
Total Number of Pages in this Submission : _____		Attorney Docket Number: UTSG:263US

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Form PTO-1449 <input type="checkbox"/> References _____ <input type="checkbox"/> Foreign Search Report <input type="checkbox"/> Certified Copy of Priority Documents <input checked="" type="checkbox"/> Reply to Decision in Response to Petition Under 37 C.F.R. 1.47(a) <input checked="" type="checkbox"/> Reply to Decision in Response to Petition Under 37 C.F.R. 1.47(a) <input checked="" type="checkbox"/> Declaration(s) 1 <input checked="" type="checkbox"/> Copy of Decision	<input type="checkbox"/> Drawings(s) _____ <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Statement under 37 CFR §3.73(b) <input type="checkbox"/> Designation of Patent Practitioners <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below) <input type="checkbox"/> Check in the amount of \$ <input checked="" type="checkbox"/> Authorized to be charged to deposit account if check insufficient or inadvertently omitted Deposit account number: <u>50-1212/UTSG:263US</u> <input type="checkbox"/> Sequence Statement <input type="checkbox"/> Paper Copy of Sequence Listing <input type="checkbox"/> Computer Readable Form (CRF) <input checked="" type="checkbox"/> Postcard <input checked="" type="checkbox"/> Affidavit <input checked="" type="checkbox"/> Exhibits A-D
Remarks: _____		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Fulbright & Jaworski L.L.P.	Customer Number	32425
Signature			
Printed Name	Mark B. Wilson	Reg. No.	37,259
Date	February 20, 2007		

EXPRESS MAIL MAILING LABEL	
NUMBER	EV 603374238 US
DATE OF DEPOSIT	February 20, 2007

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Anthony SIMMONS

Jianmin CHEN

Serial No.: 10/565,415

Filed: January 23, 2006

For: COMPOSITIONS AND METHODS FOR
HERPES SIMPLEX PROPHYLAXIS AND
TREATMENT

Group Art Unit: Unknown

Examiner: Unknown

Atty. Dkt. No.: UTSG:263US

EXPRESS MAIL MAILING LABEL	
NUMBER	EV 603374238 US
DATE OF DEPOSIT	February 20, 2007

RESPONSE TO DECISION IN RESPONSE TO PETITION UNDER 37 C.F.R. § 1.47(a)
FILED SEPTEMBER 14, 2006

MS PCT

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

In response to the Decision in Response to Petition Under 37 C.F.R. § 1.47(a), dated December 20, 2006, there are enclosed herewith:

- (a) Declaration executed by Anthony SIMMONS on behalf of Jianmin CHEN;
- (b) Affidavit Under 37 C.F.R. § 1.47 by Collin Evans;
- (c) Exhibits A-D; and
- (d) A copy of the Decision in Response to Petition Under 37 C.F.R. § 1.47(a).

Applicants note that according to the Decision in Response to Petition Under 37 C.F.R. 1.47(a), the requirements of items (1) the petition fee; and (3) a statement of the last known

address of the nonsigning joint inventor; of the Petition Under 37 C.F.R. § 1.47(a) have been met.

Applicants believe the requirements of item (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; of the Petition under 37 C.F.R. § 1.47(a) have been met, as evidenced by the Affidavit Under 37 C.F.R. § 1.47 by Collin Evans and Exhibits A-D:

Exhibit A: Copy of cover letter of instruction with Declaration and Assignment for execution by Jianmin Chen;

Exhibit B: Copy of certified mail return receipt and envelope with a stamp and note of the University of Texas Medical Branch ("UTMB"), indicating that Jianmin Chen had moved, left no forwarding address and was no longer at UTMB;

Exhibit C: Copy of internet searches for Jianmin Chen which produced no relevant hits;

Exhibit D: Copy of email from Jim Arie, Director of the Center for Technology Development of UTMB, indicating that UTMB had no forwarding address for Jianmin Chen.

Applicants further believe the requirements of item (4) an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors; of the Petition under 37 C.F.R. § 1.47(a) have been met, as evidenced by the Declaration executed by Anthony Simmons on behalf of Jianmin Chen in compliance with 37 CFR §§ 1.47(a) and 1.497(a) and (b).

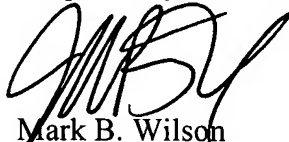
In view of the above, Applicants believe that a diligent effort was made to locate the missing inventor Jianmin Chen, and that a Declaration in compliance with 37 CFR §§ 1.47(a)

and 1.497(a) and (b) is submitted herewith. Therefore, all requirements of the Petition Under 37 C.F.R. § 1.47(a) have been met and Applicants respectfully request a Decision of Acceptance Under 37 C.F.R. § 1.47(a).

It is believed that no fees are due in connection with this filing. However, should any additional fees under 37 C.F.R. § 1.17(g) be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct or credit the appropriate fees from or to Fulbright & Jaworski Deposit Account No.: 50-1212/UTSG:263US.

Please date stamp and return the accompanying postcard to evidence receipt of these documents.

Respectfully submitted,



Mark B. Wilson
Reg. No. 37,259
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 474-5201

Date: February 20, 2007

DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or the below named inventors are the original, first and joint inventors (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **COMPOSITIONS AND METHODS FOR HERPES SIMPLEX PROPHYLAXIS AND TREATMENT**, the Specification of which:

☐ is attached hereto.
☒ was filed on **January 23, 2006** as Application Serial No. **10/565,415**.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim priority benefits under Title 35, United States Code, § 119 or 365(b) of any foreign application(s) for patent, United States provisional application(s), or inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent, United States provisional application, or inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

PRIORITY APPLICATION(S)			Priority Claimed
60/489,984	USA	July 25, 2003	Yes
(Number)	(Country)	(Date Filed)	Yes/No
PCT/US2004/024013	USA	July 26, 2004	Yes
(Number)	(Country)	(Date Filed)	Yes/No

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below or any PCT international application(s) designating the United States listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to


disclose all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56, which become available between the filing date of the prior application and the national or PCT international filing date of this application: none.

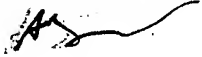

(Application Serial No.)	(Filing Date)	(Status)
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(Application Serial No.)	(Filing Date)	(Status)
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I hereby direct that all correspondence and telephone calls be addressed to Gina N. Shishima, Fulbright & Jaworski L.L.P., 600 Congress Avenue, Suite 2400, Austin, Texas 78701, (512) 474-5201.

I HEREBY DECLARE THAT ALL STATEMENTS MADE OF MY OWN KNOWLEDGE ARE TRUE AND THAT ALL STATEMENTS MADE ON INFORMATION AND BELIEF ARE BELIEVED TO BE TRUE; AND FURTHER THAT THESE STATEMENTS WERE MADE WITH THE KNOWLEDGE THAT WILLFUL FALSE STATEMENTS AND THE LIKE SO MADE ARE PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH, UNDER SECTION 1001 OF TITLE 18 OF THE UNITED STATES CODE AND THAT SUCH WILLFUL FALSE STATEMENTS MAY JEOPARDIZE THE VALIDITY OF THE APPLICATION OR ANY PATENT ISSUED THEREON.

Inventor's Full Name:	Anthony SIMMONS	
Inventor's Signature:	 on behalf of Jianmin CHEN	Date: 2/20/07
Country of Citizenship:	United Kingdom & Australia	
Residence Address: (street, number, city, state, and/or country)	1001 Postoffice Street Galveston, TX 77550	
Post Office Address: (if different from above)		

Inventor's Full Name:	Jianmin CHEN	
Inventor's Signature: 	Jianmin Chen's whereabouts are unknown, therefore, all other joint inventors have signed on his behalf.	Date: 
Country of Citizenship:	People's Republic of China	
Residence Address: (street, number, city, state, and/or country)	U.T. MEDICAL BRANCH AT GALVESTON Virology – Department of Pediatrics 301 University Blvd. MS 372 Galveston, Texas 77555	
Post Office Address: (if different from above)		

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Anthony SIMMONS
Jianmin CHEN

Serial No.: 10/565,415

Filed: January 23, 2006

For: COMPOSITIONS AND METHODS FOR
HERPES SIMPLEX PROPHYLAXIS AND
TREATMENT

Group Art Unit: Unknown

Examiner: Unknown

Atty. Dkt. No.: UTSG:263US

EXPRESS MAIL MAILING LABEL	
NUMBER	EV 603374238 US
DATE OF DEPOSIT	February 20, 2007

AFFIDAVIT UNDER 37 C.F.R. § 1.47 BY COLLIN EVANS

I, Collin Evans, hereby declare as follows:

1. I am a Patent Prosecution Assistant at Fulbright & Jaworski.
2. I sent Jianmin Chen a letter, via certified mail, dated June 14, 2006. The letter was signed by Gina N. Shishima, the attorney prosecuting this application, and requested Jianmin Chen sign and return an Inventor's Declaration enclosed with the letter. The letter was sent to the last known address of Jianmin Chen:

U.T. MEDICAL BRANCH AT GALVESTON
Virology – Department of Pediatrics
301 University Blvd. MS 372
Galveston, Texas 77555

A copy of this letter (Exhibit A) is enclosed.

3. This letter was returned to the sender with an indication that Jianmin Chen was no longer at that address and no forwarding address was available (Exhibit B).
4. I conducted an internet search for Jianmin Chen. I was not able to determine Jianmin Chen's current address as a result of this internet search. Thousands of hits were produced from this search, and I did not identify any relevant hits (Exhibit C—first page of search hits attached).
5. On January 22, 2007, I requested the forwarding address from Jianmin Chen's previous employer, The University of Texas Medical Branch at Galveston ("University"). Dr. James "Jim" Arie, Director of the Center for Technology Development at the University, replied on February 13, 2007, indicating that he had checked the relevant sources of information and that the University does not apparently have a forwarding address for Jianmin Chen. (Exhibit D).
6. On February 13, 2007, I spoke with Sundeep Mattamana, Technology Manager of the Center for Technology Development at the University, via telephone. He informed me that he made inquiries with those University personnel who might be able to provide or obtain information concerning the whereabouts and/or forwarding address of Jianmin Chen. The only information that Sundeep Mattamana was able to obtain was that Jianmin Chen had left the United States to return to China and did not leave a forwarding address.

7. I hereby declare that all statements made of my own knowledge are true and all statements made on information are believed to be true and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Date: February 20, 2007



Collin Evans

EXHIBIT A

FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TEXAS 78701-3271
WWW.FULBRIGHT.COM

GSHISHIMA@FULBRIGHT.COM
DIRECT DIAL: (512) 536-3081

TELEPHONE: (512) 474-5201
FACSIMILE: (512) 536-4598

June 14, 2006

VIA CERTIFIED MAIL
7160 3901 9844 8568 6649

Jianmin Chen, Ph.D.
U.T. MEDICAL BRANCH AT GALVESTON
Virology – Department of Pediatrics
301 University Blvd., MS 372
Galveston, Texas 77555

RE: *U.S. Patent Application No. 10/565,415 entitled "COMPOSITIONS AND METHODS FOR HERPES SIMPLEX PROPHYLAXIS AND TREATMENT" by Anthony Simmons and Jianmin Chen*
Our reference: UTSG:263US
ACTION: SIGN AND RETURN

Dear Dr. Chen:

We have received from the U.S. Patent and Trademark Office a postcard indicating that the application identified above was received in the Patent Office on **January 23, 2006** and accorded tentative Serial No. **10/565,415**.

We have now received the Notice to File Missing Parts of Nonprovisional Application for the above-referenced U.S. patent application, a copy of which is enclosed for your records. The initial due date set by the U.S. Patent Office for return of these documents is April 14, 2006, which may be extended through September 14, 2006 by payment of a gradually increasing extension fee.

Please find enclosed for your signature and return a Declaration and Assignment corresponding to the above-referenced U.S. patent application. Please sign and date the Declaration where indicated. Please provide your residential address and country of citizenship where indicated, and initial and date each of your changes. Please note that if your changes to the document are not initialed and dated, the U.S. Patent Office will render the Declaration invalid. Please also sign and date the Assignment where indicated and have your signature notarized (or witnessed, if so indicated).

25635409.1

HOUSTON • NEW YORK • WASHINGTON DC • AUSTIN • DALLAS • LOS ANGELES • MINNEAPOLIS • SAN ANTONIO
DUBAI • HONG KONG • LONDON • MUNICH • RIYADH

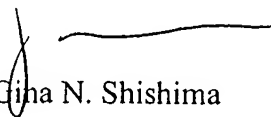
Jianmin Chen, Ph.D.

June 14, 2006

Page 2

Thank you for your continued assistance with this matter. If you have any questions or need further information, please do not hesitate to contact us.

Very truly yours,



Gina N. Shishima

GNS/cae

Encl.: as noted

cc: BethLynn Maxwell, Ph.D. (w/o encl.)
James C. Arie, Ph.D., Director (w/encl.)

DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or the below named inventors are the original, first and joint inventors (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **COMPOSITIONS AND METHODS FOR HERPES SIMPLEX PROPHYLAXIS AND TREATMENT**, the Specification of which:

- ☐ is attached hereto.
☒ was filed on **January 23, 2006** as Application Serial No. **10/565,415**.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim priority benefits under Title 35, United States Code, § 119 or 365(b) of any foreign application(s) for patent, United States provisional application(s), or inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent, United States provisional application, or inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

PRIORITY APPLICATION(S)			Priority Claimed
60/489,984	USA	July 25, 2003	Yes
(Number)	(Country)	(Date Filed)	Yes/No
PCT/US2004/024013	USA	July 26, 2004	Yes
(Number)	(Country)	(Date Filed)	Yes/No

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below or any PCT international application(s) designating the United States listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to

disclose all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56, which become available between the filing date of the prior application and the national or PCT international filing date of this application: none.

(Application Serial No.)	(Filing Date)	(Status)
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(Application Serial No.)	(Filing Date)	(Status)
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I hereby direct that all correspondence and telephone calls be addressed to Gina N. Shishima, Fulbright & Jaworski L.L.P., 600 Congress Avenue, Suite 2400, Austin, Texas 78701, (512) 474-5201.

I HEREBY DECLARE THAT ALL STATEMENTS MADE OF MY OWN KNOWLEDGE ARE TRUE AND THAT ALL STATEMENTS MADE ON INFORMATION AND BELIEF ARE BELIEVED TO BE TRUE; AND FURTHER THAT THESE STATEMENTS WERE MADE WITH THE KNOWLEDGE THAT WILLFUL FALSE STATEMENTS AND THE LIKE SO MADE ARE PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH, UNDER SECTION 1001 OF TITLE 18 OF THE UNITED STATES CODE AND THAT SUCH WILLFUL FALSE STATEMENTS MAY JEOPARDIZE THE VALIDITY OF THE APPLICATION OR ANY PATENT ISSUED THEREON.

Inventor's Full Name:	Anthony Simmons	
Inventor's Signature:		Date:
Country of Citizenship:	United Kingdom & Australia	
Residence Address: (street, number, city, state, and/or country)	1001 Postoffice Street Galveston, TX 77550	
Post Office Address: (if different from above)		

Inventor's Full Name:	Jianmin Chen	
Inventor's Signature:		Date:
Country of Citizenship:		
Residence Address: (street, number, city, state, and/or country)		
Post Office Address: (if different from above)		

ASSIGNMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt, sufficiency and adequacy of which are hereby acknowledged, the undersigned, do hereby:

SELL, ASSIGN AND TRANSFER to BOARD OF REGENTS, THE UNIVERSITY OF TEXAS SYSTEM (the "Assignee"), having a place of business at 201 West 7th Street, Austin, Texas 78701, the entire right, title and interest for the United States and all foreign countries in and to any and all improvements which are disclosed in the application for United States Letters Patent, Serial No. **10/565,415** which has been filed on **January 23, 2006** and is entitled **"COMPOSITIONS AND METHODS FOR HERPES SIMPLEX PROPHYLAXIS AND TREATMENT"**, which is a national phase application under 35 U.S.C. § 371 of international application No. PCT/US2004/024013 filed July 26, 2004, which claims priority to U.S. Provisional Patent Application No. 60/489,984 filed on July 25, 2003, such application and all divisional, continuing, substitute, renewal, reissue and all other applications for patent which have been or shall be filed in the United States and all foreign countries on any of such improvements; all original and reissued patents which have been or shall be issued in the United States and all foreign countries on such improvements; and specifically including the right to file foreign applications under the provisions of any convention or treaty and claim priority based on such application in the United States;

AUTHORIZE AND REQUEST the issuing authority to issue any and all United States and foreign patents granted on such improvements to the Assignee;

WARRANT AND COVENANT that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been or will be made to others by the undersigned, and that the full right to convey the same as herein expressed is possessed by the undersigned;

COVENANT, when requested and at the expense of the Assignee, to carry out in good faith the intent and purpose of this assignment, the undersigned will execute all divisional, continuing, substitute, renewal, reissue, and all other patent applications on any and all such improvements; execute all rightful oaths, declarations, assignments, powers of attorney and other papers; communicate to the Assignee all facts known to the undersigned relating to such improvements and the history thereof; and generally do everything possible which the Assignee shall consider desirable for vesting title to such improvements in the Assignee, and for securing, maintaining and enforcing proper patent protection for such improvements;

TO BE BINDING on the heirs, assigns, representatives and successors of the undersigned and extend to the successors, assigns and nominees of the Assignee.

Signature: _____ Date: _____
Name: Anthony Simmons

STATE OF _____
COUNTY OF _____

BEFORE ME, the undersigned authority, on this ____ day of _____, 2006 personally appeared Anthony Simmons, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same of his/her own free will for the purposes and consideration therein expressed.

Notary or Consular Officer

[SEAL]

Signature: _____ Date: _____
Name: Jianmin Chen

BEFORE ME, the undersigned authority, on this ____ day of _____, 2006 personally appeared Jianmin Chen, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same of his/her own free will for the purposes and consideration therein expressed.

Witness

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701

EXHIBIT B

GINA N. SHISHIMA
FULBRIGHT & JAWORSKI L.L.P.
A REGISTERED LIMITED LIABILITY PARTNERSHIP
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TEXAS 78701-2978
WWW.FULBRIGHT.COM



7160 3900 9844 8568 6649

RETURN RECEIPT REQUESTED

PLACE STICKER AT TOP OF ENVELOPE
TO THE RIGHT OF RETURN ADDRESS.
FOLD AT DOTTED LINE
CERTIFIED MAIL

Jianmin Chen, Ph.D.
U.T. MEDICAL BRANCH AT GALVESTON
Virology - Department of Pediatrics
301 University Blvd., MS 372
Galveston, Texas 77555

no longer at U7240

☒ Forwarding Order & form
☐ Moved - new address
☐ Undelivered by return
☐ Addressed to wrong person
☐ No Such Street
☐ No Such Number
☐ Deceased
☐ Vacant



UNITED STATES POSTAGE
PITNEY BOWES
02 1A
0004343410
\$ 04.88
JUN 14 2006
MAILED FROM ZIP CODE 78701

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS MAIL CARRIER
DETACH ALONG PERFORATION

2. Article Number



7140 3901 9944 8513 6449

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

Jianmin Chen, Ph.D.
U.T. MEDICAL BRANCH AT GALVESTON
Virology – Department of Pediatrics
301 University Blvd., MS 372
Galveston, Texas 77555

10601088/UTSG:263US

PS Form 3811, July 2001

Domestic Return Receipt

Gina N. Shishima

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

☒ Agent
☐ Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

☐ Yes
☐ No

Thank you for using Return Receipt Service

EXHIBIT C

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jianmin chen ph.d.

[Search](#)[Advanced Search](#)
[Preferences](#)**Web**Results 1 - 10 of about 11,000 for **jianmin chen ph.d.** (0.13 seconds)Welcome to Jianmin Chen's HomePage

Ph.D. Candidate. Parallel and Distributed Processing Lab ... Bing Wu, **Jianmin Chen**, Jie Wu, Mihaela Cardei, Book chapter: A Survey on Attacks and ...
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Topical microbicide for herpes simplex virus prophylaxis Anthony Simmons, MD, **Ph.D.** and **Jianmin Chen, Ph.D.** Non-Confidential Summary ...
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Brian L. Davis, Ph.D.

Davis, Brian L., **Ph.D.** Abigail Walters; Ari Levine; Azita Tajaddini, D. Eng. Edy Hasrouni ... S. Solomon Praveen, MS; Susan D'Andrea, **Ph.D.** Yan **Chen**, MS ...
www.lerner.ccf.org/bme/davis/ - 17k - [Cached](#) - [Similar pages](#)

Professional Personnel

Jianmin Chen, Postdoctoral Research Associate. **Ph.D.**, Integrated Textile and Apparel Science, Auburn University, 2004. Testing and characterization of ...
www.aewc.umaine.edu/personnel/professionals.asp - 52k - [Cached](#) - [Similar pages](#)

VITAE

Email: Jianmin.Chen@umit.maine.edu. EDUCATION. · **Ph.D.** in Integrated Textile and Apparel Science, Dec. 2004, Auburn University, AL, USA. ...
www.aewc.umaine.edu/personnel/resumes/pers_vchen.htm - 36k - [Cached](#) - [Similar pages](#)

Women Ph.D. Graduates

MARDI C. HASTINGS, **Ph.D.** ME Marine Mammal Program Manager, Office of Naval ... Advisor: Dr. **Jianmin** Qu, Mechanics of Materials. LISA A. DIXON, **Ph.D.** ME ...
www.me.gatech.edu/me/publicat/brochures/wmnpd.html - 30k - [Cached](#) - [Similar pages](#)

Minority Ph.D. Graduates

Advisor: Dr. **Jianmin** Qu. Area: Mechanics of Materials ... Ruijun **Chen, Ph.D.** ME. Advisor: Dr. Daniel Baldwin. Area: Manufacturing. Mitul Modi, **Ph.D.** ME ...
www.me.gatech.edu/me/publicat/brochures/minpd.html - 52k - [Cached](#) - [Similar pages](#)

Associates

Ph.D. 2002. University of Alberta. Research Officer Computational Video ... Engineer/Team Leader. Telus. Edmonton, Canada. MegaShe. **Jianmin Chen**. M.Sc. 1997 ...
www.ee.cuhk.edu.hk/~qhmeng/associates.htm - 50k - [Cached](#) - [Similar pages](#)

macdonald_research


Marcy E. MacDonald, **Ph.D.** Massachusetts General Hospital ... B.Sc., Vladimir Vrbanc, DVM, Jayalakshmi Srinidhi, B.Sc. and **Jianmin Chen**, B.Sc. ...
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Email: Jianmin.Chen@umit.maine.edu. EDUCATION. · **Ph.D.** in Integrated Textile and ...
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Associates

China. Peter Xiaoping Liu. **Ph.D.** 2002. University of Alberta. Associate Professor ...
Engineer/Team Leader. Telus. Edmonton, Canada. MegaShe. **Jianmin Chen** ...
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EXHIBIT D

Evans, Collin

From: Arie, Jim C. [jarie@UTMB.EDU]
Sent: Tuesday, February 13, 2007 11:09 AM
To: Evans, Collin
Cc: Mattamana, Sundeeep
Subject: RE: Missing Inventor - Our Ref: UTSG:263US SN 10/565,415 "COMPOSITIONS AND METHODS FOR HERPES SIMPLEX PROPHYLAXIS AND TREATMENT" - Anthony SIMMONS and Jianmin CHEN

Collin,
We do not have a forwarding address for the inventor Jianmin Chen. Thanks Jim

Jim Arie, Ph.D.
Director, Center for Technology Development
Associate Professor, School of Nursing
University of Texas Medical Branch
1700 Strand
Customs House
Galveston, TX 77555-0926
Phone: 409 772-7957
Fax: 409 772-7954
jarie@utmb.edu
<http://research.utmb.edu/tmo/tmohome.htm>

-----Original Message-----

From: Evans, Collin [mailto:cevans@fulbright.com]
Sent: Wednesday, February 07, 2007 1:52 PM
To: Arie, Jim C.
Cc: Perumal, Karthika ; Shishima, Gina
Subject: FW: Missing Inventor - Our Ref: UTSG:263US SN 10/565,415 "COMPOSITIONS AND METHODS FOR HERPES SIMPLEX PROPHYLAXIS AND TREATMENT"
- Anthony SIMMONS and Jianmin CHEN
Importance: High

Dear Dr. Arie,

This is just a friendly reminder regarding the information requested below. Please note that if you do not have a forwarding address for the inventor we need written confirmation from you. A reply to this email will suffice.

Thank you,
Collin

Collin Evans
Patent Prosecution Assistant
Fulbright & Jaworski, L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 536-5644
(512) 536-4598 fax
cevans@fulbright.com

> -----Original Message-----

> **From:** Evans, Collin
> **Sent:** Monday, January 22, 2007 10:34 AM
> **To:** 'jarie@utmb.edu'
> **Cc:** Shishima, Gina
> **Subject:** Missing Inventor - Our Ref: UTSG:263US SN 10/565,415

> "COMPOSITIONS AND METHODS FOR HERPES SIMPLEX PROPHYLAXIS AND
> TREATMENT" - Anthony SIMMONS and Jianmin CHEN
> Importance: High
>
> Dear Dr. Arie:
>
> We sent a transmittal letter with a Declaration for signature,
> regarding the above-referenced matter, via Certified Mail to the last
> known address of Jianmin Chen at Virology - Department of Pediatrics,
> 301 University Blvd. MS 372, Galveston, Texas 77555. This letter was

> returned with a note stating Mr. Chen was no longer at U.T. Medical
> Branch at Galveston and a stamp indicating that he moved and left no
> forwarding address. Please check your records and provide a
> forwarding address for Jianmin Chen.
>
> Thank you for your assistance in this matter.
>
> Best regards,
> Collin
>
> Collin Evans
> Patent Prosecution Assistant
> Fulbright & Jaworski, L.L.P.
> 600 Congress Avenue, Suite 2400
> Austin, Texas 78701
> (512) 536-5644
> (512) 536-4598 fax
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Austin, TX 78701

In re Application of
SIMMONS *et al*
U.S. Application No.: 10/565,415
PCT No.: PCT/US04/24013
Int. Filing Date: 26 July 2004
Priority Date: 25 July 2003
Attorney Docket No.: UTSG263US
For: COMPOSITIONS AND METHODS FOR
HERPES SIMPLEX PROPHYLAXIS
AND TREATMENT

DECISION

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 14 September 2006.

BACKGROUND

On 14 February 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 14 September 2006, applicants filed a response which was accompanied by, *inter alia*, the subject petition, a declaration signed by one of the two named inventors; a declaration by Collin Evans; a five-month extension and fee; the petition fee of \$200.00; and the \$130.00 surcharge fee.

DISCUSSION

Applicants claim that they have been unable to locate a joint inventor, Jianmin Chen and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 14 February 2006.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the

10/565,415

nonsigning joint inventors.

Concerning item (1), the petition fee of \$200.00 has been paid.

With regards to item (3), the last known address of co-inventor Jianmin Chen is listed as:

U.T Medical Branch at Galveston
Virology - Department of Pediatrics
301 University Blvd. MS 372
Galveston, TX 77555

Thus, both items are complete.

Regarding item (2), applicants' burden in showing that an inventor cannot be located is explained in section 409.03(d) of the MPEP which states, in part:

Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of the facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made . . .

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions . . .

The 37 CFR 1.47(a) applicant has not met the requirements of proving that a diligent effort was made to contact the nonsigning co-inventor. While an internet search on Google was performed (and documentary evidence provided), no further attempt was identified.

Petitioners should attempt to determine if Mr. Chen's former employer at the University of Texas Medical Branch (or former co-workers) have further information concerning his whereabouts. It is highly unlikely that Mr. Chen left no information with his employer. Moreover, a telephone search should also be made. These efforts are not extraordinary and should be made to demonstrate that a diligent effort was made to locate the nonsigning joint inventor.

For the reasons noted above, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two co-inventors on behalf of themselves and the nonsigning joint inventor. However, it appears that the second page of the declaration is missing and the citizenship of the inventors are not recorded on the declaration. As such, this declaration fails to comply with 37 CFR 1.497(a) and (b). Applicants need to submit a complete declaration signed by the inventor in the signature block of page two of the declaration. A notary is not required. For these reasons, item (4) is also not satisfied.

All requirements of 37 CFR 1.47(a) are not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are authorized under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302